



#153961

## Art Unit 3711

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Examiner: Sebastiano Passaniti  
Applicants: Frank Thomas  
Serial No: 09/845,280  
Filed: April 30, 2001  
TITLE: A Golf Club Having An Alignment  
Device Thereon

RECEIVED  
SEP 27 2002  
TECHNOLOGY CENTER  
Customer No.:27162

Commissioner for Patents  
Washington, D.C. 20231

## APPEAL BRIEF

Sir:

This is an appeal from the Final Rejection dated April 26, 2002 finally rejecting claims 1 to 4.

This Appeal Brief is being filed in triplicate.

A check in the amount of \$160.00 (small entity) is enclosed. Should any additional fees be required, please charge such to Deposit Account 03-0678.

**FIRST CLASS CERTIFICATE**

I hereby certify that this correspondence is being deposited today with the U.S. Postal Service as First Class Mail in an envelope addressed to:

Assistant Commissioner of Patents  
Washington, DC 20231

*Francis C. Hand*  
Francis C. Hand, Esq.

9-13-2002  
Date

Respectfully submitted,

Respectfully submitted,

CARELLA, BYRNE BAIN, GILFILLAN,  
CECCHI, STEWART & OLSTEIN  
Six Becker Farm Road  
Roseland, NJ 07068  
Phone: 973-994-1700  
Fax: 973-994-1744

## **TABLE OF CONTENTS**

	Page
Real Party in Interest	3
Related Appeals	3
Status of Claims	3
Status of Amendments	3
Summary of Invention	3
Issues	4
Grouping of Claims	4
Arguments	4
Appendix -- Claims on Appeal	

## **REAL PARTY IN INTEREST**

The real party in interest is the applicant, Frank Thomas.

## **RELATED APPEALS**

There are no related appeals and/or interferences.

## **STATUS OF CLAIMS**

Claims 1 to 4 have been rejected.

Claims 5 TO 25 have been allowed.

## **STATUS OF AMENDMENTS**

An Amendment after Final Rejection filed May 6, 2002 has not been entered.

## **SUMMARY OF INVENTION**

The invention is directed to an alignment device that is provided on a golf club to be used by a golfer to align the club with a "spot" on a green.(Page 3, lines 4 to 16)

The golf club (10) may be a putter that includes a shaft 11 having a longitudinal axis 12 and a head 13 extending laterally from one end of the shaft 11 and having a flat striking face 14 thereon. (Page 6, lines 1 to 3;Fig.1).

The alignment device is in form of a line 15, which extends along a surface of the shaft 11, and the surface of the head 13. (Page 6, lines 8 to 14; Fig. 1). The line 15 has two portions or legs that are disposed at an angle to each other and that are in the same plane as the longitudinal axis 12 of the shaft 11. (Page 6, lines 11 to 13; Figs. 1 and 2). The plane of the line 15 is also parallel to the striking (putting) face 14 of the head 13. (Page 6, lines 13 to 14; Figs. 1 and 2)

When a golfer is ready to putt a ball 16 along a green 17 into a cup 18, the putter 10 is positioned adjacent to the golf ball 16 so that the plane of the alignment line is visually placed perpendicular to an imaginary line 19 extending between the cup 18 and the face 14 of the club 10. (Page 6, line 23 to Page 7, line 3; Figs. 2 and 3). Assuming that the green is flat between the ball 16 and the cup 18, the golfer would then swing the putter 10 toward the cup 18 while maintaining the plane of the alignment line 15 perpendicular to the imaginary line 19. Upon impact with the golf ball 16, the putter 10 would putt the ball 16 forwardly along the imaginary line 19 toward the cup 18.

If the green 17 has undulations between the ball 16 and the cup 18, the golfer may pick out a spot between the ball and the cup to which the golfer wishes to direct the ball. Again, the alignment line 15 would be used to place the plane of the face 14 of the

head 13 perpendicular to the imaginary line between the face 14 and the "spot". After being impacted by the putter 10, the ball would be directed toward the "spot" with the path of the ball being influenced by the undulations of the green. (Page 7, lines 12 to 17)

## **ISSUES**

I. Whether claims 1 to 4 are unpatentable over Reach in view of Seisaku under the provisions of 35 U.S.C. 103.

## **GROUPING OF CLAIMS**

Claims 1 and 4 stand or fall together.

Claim 2 stands alone.

Claim 4 stands alone.

## **ARGUMENTS**

It is respectfully noted that applicant is not attacking the references individually. Applicant is attacking the proposed combination of the references. That is to say, the combined disclosures of Reach and Seisaku do not suggest to one of ordinary skill in the art that a structure as recited in claim 1 would result.

For example, Reach teaches and suggests that the club head of a putter may be provided with a sighting line c that extends from the toe to the top of the hosel. There is no suggestion that the sighting line should extend along the shaft of the putter. In fact, the teaching is that the sighting line should not extend upwardly along the shaft of the putter.

The teaching and suggestion of Reach is that the sighting line is to be viewed from above as a line (not a plane) that is greater than the face of the club (column 1, lines 30-44 and column 1, line 53 to column 2, line 2).

In Seisaku, a tape 4 is attached to the shaft 3 in parallel to the face of the putter. (Figs 8 and 9) While Seisaku appears to show a line on the head of the putter (Fig.8), the tape 4 is not aligned with this line.

If one applied a tape to the shaft of the putter in Reach, following the teachings of Seisaku, the tape would not be in alignment with the line c. Thus, there would no longer be one line to sight but two lines, i.e. the line on the head and the tape on the shaft.

Further, assuming one of ordinary skill in the art were to follow the suggestions of the Examiner, this would result in a tape being applied to the shaft of the Reach putter. However, since the tape 4 is wider than the sighting line illustrated in Reach, the user would be presented with an optical problem, namely, attempting to define a centerline of the tape and a centerline of the sighting line. Of course, there is also the problem of properly aligning a tape that is applied to the putter shaft with the sighting line, which is on the head of the putter.

Still further, merely extending the tape of Seisaku onto the putter head presents the problem of having the tape adapt to the off-set surfaces between the putter shaft 3 and the putter head 1 as indicated in Fig. 1, that is to say, the transition between the cylindrical shaft 3 and the surfaces of the putter head. The problem is further exacerbated with a putter as indicated in Fig. 2 of Seisaku.

There is clearly no teaching in Reach or Seisaku or the references taken together of having a sighting line on the head of a putter and along the shaft of the putter in a plane perpendicular to the axis of the shaft and parallel to the face of the head.

The Examiner appears to acknowledge the fact the line and tape appearing in Seisaku are not in alignment with one another. However, the Examiner considers this to be irrelevant on the basis that claim 1 does not require this limitation. Issue is taken in this respect. Claim 1 requires "an alignment means extending along a surface of such shaft and said head..." Clearly, the "alignment means" must be in alignment with itself. Furthermore, claim 2 further defines the alignment means as "a continuous line."

For the above reasons, the suggestion of combining the teachings and suggestions of Reach and Seisaku would not result in the claimed structure. Accordingly a rejection of claim 1 as being unpatentable over the teachings of Reach and Seisaku is not warranted pursuant to the provisions of 35 U.S.C. 103.

Note is made that claim 1 requires the "alignment means" to be "in a plane perpendicular to " the longitudinal axis of the shaft (i.e. the alignment means and axis are in the same plane) and "parallel to said striking face of said head". That is to say, the shaft and line (alignment means) are required to be in the same vertical plane as the line (alignment means) on the head and this plane is required to be orthogonal to the intended putting line.

As is known, some putter shafts are designed to be tilted forward or backward from the vertical plane in the address position. This would throw off the alignment means. The plane of the shaft and putter head line must be coincident and vertical and should be aligned perpendicular to the line of putt.

As described in Applicant's description at page 3, after a golfer has determined the path in which a golf ball is to be directed, the alignment means on the putter *is used to align the putter with the cup*. That is to say, when addressing the ball, the golfer visually aligns the alignment line on the putter with his/her eye so that the plane of the line is perpendicular to an imaginary line from the cup to the face of the club head. Thus, by keeping the alignment line perpendicular to this imaginary line when addressing the ball and subsequently when the putter is swung forwardly toward the cup, the face of the putter should strike the ball so that the ball rolls forwardly along the imaginary line directly toward the cup.

Where the green has undulations between the ball and the cup, the golfer may select a spot on the green toward which the ball is to be putted to compensate for the undulations. In this case, the plane of the alignment line is made perpendicular to the spot on the green towards which the ball is to be directed.

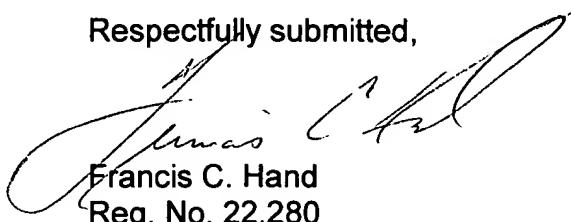
There is no teaching in Reach or Seisaku to align the putter with a cup or intended path.

Claim 2 requires the alignment means to be "a continuous line". There is no teaching in Reach or Seisaku that would motivate one of ordinary skill in the art to continue the sighting line of Reach along the putter shaft. Likewise, there is no teaching in Reach or Seisaku that would motivate one of ordinary skill in the art to extend the tape of Seisaku along the putter head surface.

Claim 3 depends from claim 1 and further recites that the alignment means is "a discontinuous line". Both Reach and Seisaku suggest the use of continuous sighting lines or tapes. There is no teaching of a discontinuous line. Accordingly, in the absence of any suggestion in these two references, there is no motivation for one of

ordinary skill in the art to use a discontinuous line as the alignment means. Accordingly, a rejection of claim 3 is not warranted pursuant to the provisions of 35 U.S.C. 103.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Francis C. Hand".

Francis C. Hand  
Reg. No. 22,280

CARELLA, BYRNE BAIN, GILFILLAN,  
CECCHI, STEWART & OLSTEIN

## APPENDIX

1. A golf club comprising
  - a shaft having a longitudinal axis,
  - a head extending laterally from one end of said shaft and having a flat striking face thereon, and
    - an alignment means extending along a surface of said shaft and said head in a plane perpendicular to said longitudinal axis of said shaft and parallel to said striking face of said head.
2. A golf club as set forth in claim 1 wherein said means is a continuous line.
3. A golf club as set forth in claim 1 wherein said means is a discontinuous line.
4. A golf club as set forth in claim 1 wherein said means is a line inscribed in said shaft and said head.